REMARKS

Applicants have carefully reviewed in light of the Office Action mailed June 19, 2009. Claims 75-101 are pending in this Application. Claims 75-101 stand rejected under 35 U.S.C. § 103(a). Claims 75-81, 84, 85, 87, 88, 92, 95, and 100 have been amended. No new matter was introduced. Applicants respectfully request reconsideration and favorable action in this case.

Specification Amendments

Applicants have amended the Abstract and believe the amendments comply with M.P.E.P. § 608.01(b). No new matter was introduced.

Claim Objections

Claims 81, 87, and 92 were objected due to various typographical errors, which the Examiner recommended be replaced with alternative language. Applicants have amended Claims 81, 87, and 92 accordingly and respectfully request the claim objections be withdrawn.

Rejections under 35 U.S.C. § 103

Claims 75-76, 79, 81, 82, 86-93 and 100-101 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication 2004/0185883 by Rukman (*Rukman*) in view of U.S. Patent Application Publication 2003/0109269 by Laumen *et al.* (*Laumen*). Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

Claims 77, 78, 80, 83-85 and 94-99 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Rukman* in view of *Laumen*, and further in view of well known prior art. Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Even if each limitation is disclosed in a combination of references, however, a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int'l. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, the Examiner must identify an apparent reason to combine the known elements in the fashion claimed. *Id.* "Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.*, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Finally, the reason must be free of the distortion caused by hindsight bias and may not rely on ex post reasoning. *KSR*, 127 S.Ct. at 1742. In addition, evidence that such a combination was uniquely challenging or difficult tends to show that a claim was not obvious. *Leapfrog Enterprises, Inc. v. Fisher-Price, Inc.* 485 F.3d 1157, 1162 (Fed. Cir. 2007), citing *KSR*, 127 S.Ct. at 1741.

Applicants submit that the cited references, separately or as combined by the Examiner, fail to disclose, teach, or suggest all the elements of the pending claims. For example, amended Independent Claim 75 recites, in part:

> performing terminal-specific configuration at the server using the terminal device information and control information to generate a terminal-specific configuration template and a terminal-specific parameterized configuration profile;
> disassembling the received service message into individual components, and analyzing the structure of the components to obtain formatted structure information;
>
> ...
>
> producing an audio/visual presentation message based on a pre-specified presentation format from the service message using the formatted structure information and the terminal-specific configuration template and the terminal-specific parameterized configuration profile, and conveying the presentation message to the terminal.

According to the Examiner, "Rukman does not specifically disclose dissembling the service message into individual components, and analyzing the structure of the components to obtain formatted structure information." (Office Action, Page 5). Applicants submit that not only

does *Rukman* fail to teach or suggest the elements noted by the Examiner, but *Rukman* also fails to disclose, teach, or suggest other elements of Independent Claim 75. For example, Applicants submit that *Rukman* fails to teach or suggest "performing terminal specific configuration at the server using the terminal device information and control information to generate a terminal-specific configuration template and a terminal-specific parameterized configuration profile." Referring to Paragraphs [0011]-[0014], as relied upon by the Examiner, *Rukman* discloses

(1) a unique reply telephone number is assigned to the first non-SMS message;

(2) replacing the sender's address in the first non-SMS message with the unique reply telephone number and by removing overhead information;

(3) forwarding the first SMS message to SMS client, which creates a reply message, where the ;

(4) receiving forwarded SMS message as a second SMS message, where the second SMS message is addressed to a unique reply addresss;

(5) a second non-SMS message is created from the second SMS message by replacing the unique reply address with the original sender's address and by adding at least part of the overhead information to the second SMS message;

(6) the second non-SMS message is sent to the original sender's address.

Nowhere in the relied upon Paragraphs does *Rukman* disclose generating a terminal-specific configuration template and/or a terminal-specific parameterized configuration profile. To the contrary, *Rukman* merely discloses generating SMS messages and non-SMS messages.

Applicants submit that because *Rukman* fails to disclose, teach, or suggest generating a terminal-specific configuration template and/or a terminal-specific parameterized configuration profile, *Rukman* also fails to teach or suggest <u>producing an audio/visual presentation message based on a pre-specified presentation format from the service message using the formatted structure information and the terminal-specific configuration template and the terminal-specific parameterized configuration profile</u>, as recited in Claim 75. Applicants also submit that Paragraph [0015], lines 8-15 of *Rukman*, as relied upon by the Examiner, also fails to disclose, teach, or suggest this element. To the contrary, *Rukman*

discloses a "means for creating SMS messages from the MMS messages. The newly created SMS message include at least a portion of the MMS message text. The gateway also includes means for assigning a unique reply address to the new SMS messages." Means to create SMS message from MMS messages and means for assigning a unique reply address cannot be construed as producing an audio/visual presentation message based on a pre-specified presentation format from the service message using (1) the formatted structure information, (2) the terminal-specific configuration template, and (3) the terminal-specific parameterized configuration profile, as recited in Claim 75.

Laumen, separately or combined with *Rukman* also fails to disclose, teach, or suggest the above recited elements of amended Independent Claim 75. According to the Examiner, *Laumen* allegedly discloses "dissembling the service message into individual components, and analyzing the structure of the components to obtain formatted structure information (Par. 5)." (Office Action, Page 5). Applicants disagree. Referring to the relied-upon Paragraph [0005], *Laumen* discloses a SMS service that follows the GSM standard, which only allows text transmission. Accordingly, *Laumen* discloses "binary data, such as audio data, image data, or the like must be converted to text format when they are transmitted, and reconverted to binary data after being received." *Laumen* fails to disclose, teach, or suggest that the binary data, or even the audio data and/or image data is/are analyzed to obtain formatted structure information.

Furthermore, Applicants submit that there is no teaching, suggestion, or motivation to combine *Rukman* and *Laumen*. As to findings of obviousness when a modification can be made, as proposed by the Examiner, the M.P.E.P. requires the Examiner to make and articulate each of the following findings:

(1) a finding that there was some teaching, suggestion, or motivation, *either in the references themselves or in the knowledge generally available to one of skill in the art*, to modify the reference or to combine reference teachings;

(2) a finding that there was reasonable expectation of success; and

(3) whatever additional findings based on the factual inquiries under *Graham v. John Deere Co.*, 383 U.S. 1 (1966) as may be necessary, in view of the facts of the case under consideration, to explain a conclusion of obviousness. M.P.E.P. § 2143(G).

In the present case, each of the required findings above has not been made. For example, the Examiner's reasoning behind the proposed combination of *Rukman* and *Laumen* is "[i]t would have been obvious to a person of ordinary skill in the art at the time of invention to modify the method of Rukman by incorporating the teachings of Laumen for the propose of providing an efficient communication system," and is a mere conclusory statement as there is no evidence of record for the modification or assertion proposed by the Examiner. (Office Action, Page 5). Just as factual findings in a court case must be supported by admissible evidence of record (*e.g.,* documents, tangible things, sworn testimony), factual findings made in a patent prosecution must be supported by documentary evidence in the record. 37 C.F.R. § 1.104(c)(2); M.P.E.P. § 2144.03(C) (*e.g.,* references of record, declarations of those with ordinary skill in the art, etc.). If the Examiner relies on the Examiner's own personal knowledge to support a finding of what is known in the art, such finding must be supported with an affidavit or declaration setting forth specific factual statements and explanation to support the finding. 37 C.F.R. § 1.104(d)(2); M.P.E.P. § 2144.03(C).

Rukman and/or *Laumen* also fail to teach or suggest all the elements of Independent Claim 101. For example, Independent Claim 101 recites, in part:

> *performing terminal-specific configuration at the server using the terminal device information and control information to generate a service message generating template,* based on a predetermined presentation format for generating the service message;
> *transmitting said service message generating template to the terminal;*
> combining the generated message content with the service message generating template using a pre-specified server-/terminal-specific transmission protocol;
> *generating a service message at the server using the combined service message generating template and message content*

None of *Rukman and Laumen,* alone or in combination, teach or suggest performing terminal-specific configuration at the server *using the terminal device information and*

control information to generate a service message generating template, based on a predetermined presentation format for generating the service message for at least the reasons discussed above regarding Independent Claim 75. Thus, Applicants submit that neither *Rukman* nor *Laumen* teach or suggest (1) transmitting the service message generating template to the terminal, and (2) generating a service message at the server using the combined service message generating template and message content.

For at least these reasons, Independent Claims 75 and 101, and all claims that depend therefrom, are patentably distinct over the cited references. Applicants respectfully request withdrawal of the rejections under 35 U.S.C § 103(a) and full allowance of all pending claims.

No Waiver

All of Applicants' arguments and amendments are without prejudice or disclaimer. Additionally, Applicants have merely discussed example distinctions from the references relied upon. Other distinctions may exist, and Applicants reserve the right to discuss these additional distinctions in a later Response or on Appeal, if appropriate. By not responding to additional statements made by the Examiner, Applicants do not acquiesce to the Examiner's additional statements. The example distinctions discussed by Applicants are sufficient to overcome the rejections asserted in the present Office Action.
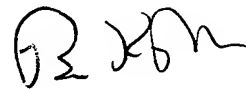
CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of the Claims 75-101.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2684.

Respectfully submitted,
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